

# ***Your guide to the Development Application process***

***Small housing development***

***NSW Department of Planning and Environment  
May 2018***



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## Foreword

I am pleased to present *Your guide to the Development Application process*, for small housing development, which has been designed to get you building and renovating sooner.

In March 2017, councils across NSW received the Department of Planning and Environment's *Development Assessment Best Practice Guide* to help them deliver faster housing approvals.

While collaborating with councils to implement the guide, we identified the need to demystify some of the planning processes for inexperienced and first-time renovators, or one-off applicants of small scale housing developments.

Working with four councils from across the State to gain insights from their communities' expectations and experiences with the process, we produced this guide to help you work through a development application for a new home, extension or renovation.

The contributions from Dubbo Regional Council, Port Stephens Council, Georges River Council and the Inner West Council were invaluable.

The guide explains in simple terms, the planning system and gives you step-by-step instructions on how to go about lodging a DA, thereby saving you time and no doubt a few headaches.

It has been designed in two parts – an overview of the NSW planning system, and an explanation of the development assessment process. You'll find resources here, including where to find information that you require to submit your development application.

Happy building and renovating!

**The Hon. Anthony Roberts**

NSW Minister for Planning and Housing





# Contents

<b>Preface</b>	<b>4</b>
Purpose of this guide	5
Who is this guide for?	5
Types of development covered	5
How to use this guide	5
<b>Part 1: Getting started</b>	<b>8</b>
Do I need development consent from my council?	9
Why are DAs required?	11
The planning system	11
<b>Part 2: Development assessment and construction approval processes</b>	<b>15</b>
The process and participants' roles	16
Stage 1: Pre-lodgement (Getting it right at the start)	19
Stage 2: Lodgement and initial administration by council of your application	24
Stage 3: Assessment (What happens to my DA now?)	26
Stage 4: Determination (The Decision)	27
Stage 5: After decision – get your Construction Certificate (approval to build) and start	30
Stage 6: Get your Occupation Certificate (OC) and celebrate	31
<b>Glossary</b>	<b>34</b>



# ***Preface***

## Purpose of this guide

The New South Wales planning system enables and guides development to ensure we have housing, jobs and a healthy environment.

Many forms of development require approval from your council, technically known as development consent. You apply for development consent by lodging a development application (DA).

The DA process can be confusing for first time applicants. This guide explains the process and assists you in preparing and lodging a DA, as well as explaining the next steps to get you building.

## Who is this guide for?

The guide is helpful for:

- People building a new home or planning a renovation.
- Small-scale developers.
- People preparing submissions on developments proposed in their area.
- Real estate sales people (giving pre-purchase advice).
- Project specialists (such as granny flat developers).
- Those wishing to learn more about the development application (DA) and assessment process.

## Types of development covered

This guide is most relevant to small residential development including:

- Alterations and additions to houses.
- New houses.
- Secondary dwellings – i.e. granny flats.
- Dual occupancies.

This guide deals with DAs that require development consent from council. It does not deal with State significant development determined by or on behalf of the Minister. It briefly describes exempt and complying development to make you aware of those approval pathways.

## How to use this guide

Part 1 provides an overview of the NSW planning system to inform you and allow you to better participate in the development assessment process.

Part 2 describes the process to obtain development consent from council in detail. The process is described in stages.

You can work through the guide from start to finish or go straight to the step that is relevant to you.



## Part 1 – Getting started

### **Do I need development consent from my council?**

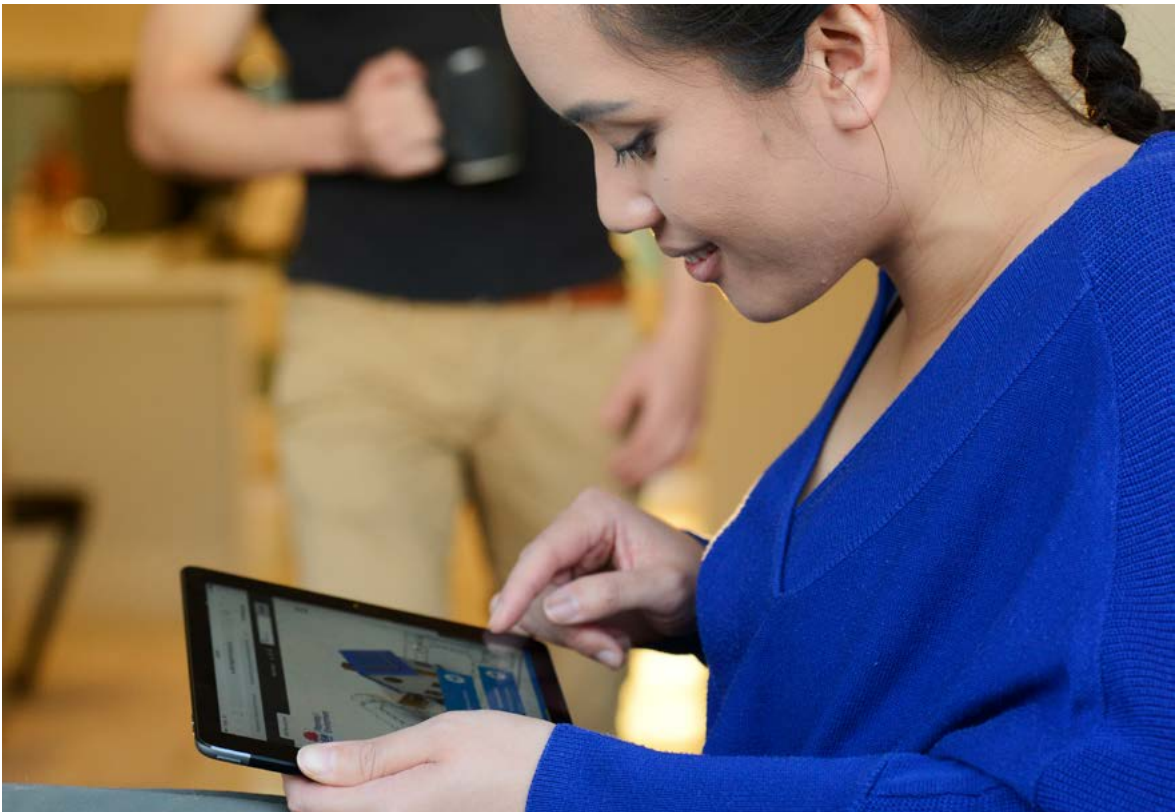
There are some forms of development that do not require development consent (exempt development) and others that may be approved via a fast track approval pathway (complying development). This section helps you understand whether you require development consent and what the best pathway is for you.

### **Why are DAs required?**

You may be questioning why you need to get development consent. This section describes why the development consent process is important.

### **The planning system**

The planning system is a framework of legislation, policy and practice. This section will help you to understand those elements, and their importance.





## Part 2 – Development assessment and construction approval processes

### Stage 1: Pre-lodgement (Getting it right at the start)

This section describes actions you can take when you are preparing your DA that will make the development assessment process easier including understanding your land, putting together your expert team, talking to council and talking to your neighbours.

### Stage 2: Lodgement and initial administration by council, of your application

This section describes the information that must be included in your DA, and the initial steps council takes in its processing (notification, referral and allocation to an assessment officer).

### Stage 3: Assessment (What happens to my DA now?)

This section describes the process council will follow when undertaking its assessment. It is important to understand these processes so you can understand what is happening, when you can expect to hear from council and how you can participate in the process.

### Stage 4: Determination (The Decision)

This section explains the possible decisions council can make about your DA and the importance of conditions that council might place on your development consent, if approved. This section also describes mechanisms that allow you to seek to:

- Modify your development consent.
- Have council reconsider its decision; or
- Appeal the council's decision to the Land and Environment Court.

### Stage 5: After decision – get your Construction Certificate (approval to build) and start

Your development consent is an approval for the carrying out of development as proposed in your DA. You also need to get a construction certificate for any building work, which considers how your building will be built to ensure it is safe, healthy and in accordance with the development consent. You can obtain your construction certificate from council or an accredited certifier.

### Stage 6: Get your Occupation Certificate and celebrate

You must obtain an Occupation Certificate to certify that you have met the requirements of your development consent and construction certificate, and that the building is now ready to occupy and enjoy.



***Part 1:***  
***Getting started***

## Do I need development consent from my council?

The NSW planning system has a risk based approach to development. The type of consent or approval you require, if any, depends upon the scale and potential impacts of your development (such as on traffic, noise, privacy and solar access) on adjoining properties. There are three

assessment pathways that may apply to small residential development: exempt development; complying development; and development that requires consent from a consent authority (typically a council).

Assessment Pathway			
	Pathway		
	Exempt Development	Complying Development	Development Consent
Level of approval	No approval	Approval by issue of complying development certificate by certifier	Council consent
Potential impact	Minimal environmental/amenity impact	Predictable environmental/amenity impacts	Could be major environmental/amenity impact
Level of assessment	Must comply with pre-set standards	Must comply with pre-set standards and conditions	Merit assessment

### Exempt Development

Exempt Development is minor development that will have minimal impact on the site and surrounding neighbours or locality. It does not require any consent or approval, if it meets standards set in either *State Environmental Planning Policy (Exempt and Complying*

*Development Codes*) 2008 (Codes SEPP) or your council's local environmental plan (LEP). Examples of exempt development are:

- Barbecues.
- Small fences.
- Satellite dishes.
- Small decks.

### Complying Development

Complying development is a fast track and cost-effective approval process for routine development, including one and two storey homes, alterations and additions and outbuildings. It can be used for development that meets specified predetermined development standards listed in the Codes SEPP or your council's LEP. Obtaining a complying development certificate is a potential alternative to obtaining development consent.

Complying development certificates can be granted by council or an accredited certifier and they can advise further what standards would apply to your development. Further information can also be found on the NSW planning portal [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au)

### Development that requires consent

A DA is a formal application for development that requires consent under the NSW *Environmental Planning and Assessment Act 1979* (EP&A Act). It is usually made to your local

council and consists of standard application forms, supporting technical reports and plans.

The focus of this guide is the DA process.



## Why are DAs required?

A development consent permits a new building that will change our environment, and may affect our amenity or the amenity of those around us.

A DA is required to:

1. Manage change to ensure that the cumulative impacts of developments do not negatively affect the environment.
2. Balance public and private interests by ensuring new development fits the character of the area and sits comfortably within the 'public domain' (e.g. streets, laneways or public reserves).
3. Provide an impartial process which allows interested members of the community to raise issues, to ensure a balanced and considered outcome for all.
4. Ensure that the hard infrastructure (e.g. stormwater drainage, car parking and power supply) and soft infrastructure (e.g. trees and landscaping) needed for your development is provided.
5. Ensure that your building is structurally safe, protected from fire and has appropriate access to sunlight and ventilation.

## The planning system

State and local planning legislation and policies set the rules that control what development can occur on your land. The planning system has a hierarchical structure with the EP&A Act sitting at the top of the hierarchy, as shown below.



## 1. Environmental Planning and Assessment Act 1979

The EP&A Act sets up the framework for the planning system as follows:

1. How rules affecting development are made; and
2. How development is assessed against those rules.

## 2. Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)

The EP&A Regulation details certain processes that must be followed by councils when assessing a DA. It specifies more detailed matters such as the fees that can be charged by a council to receive and assess a DA.

## 3. Environmental Planning Instruments (EPIs)

EPIs introduce controls and requirements for specific issues and places in your local government area. There are two types of EPIs:

1. State Environmental Planning Policies (SEPPs) deal with issues that are of importance to the whole State. It is important to note that this does not necessarily mean that each SEPP will be of relevance to your DA. An example that may apply to you is:
  - SEPP (Building Sustainability Index: BASIX) 2004: sets standards for sustainable development (e.g. energy efficiency, water tanks).

2. Local Environmental Plans (LEPs) – Each council has their own LEP which does four main things:

- **Zones land to specify what development is permissible without consent, permissible only with consent or prohibited in the zone.**

Your site is most likely zoned as 'residential' or 'rural' which means that new houses, alterations and additions, and possibly dual occupancies and secondary dwellings, are allowed to be built.

- **Identifies whether your house or the area it is situated in has heritage significance.**

If you live in a historic home (heritage item) or area (a conservation area), you are looking after a piece of Australia's history. This means you may have to take extra design care in planning your changes.

- **Identifies special matters for consideration.**

There may be specific environmental issues e.g. flooding, bushfire, acid sulfate soils and environmentally sensitive land that may affect your site. Such issues should be addressed in any DA and may limit the extent or location of the development on the site.

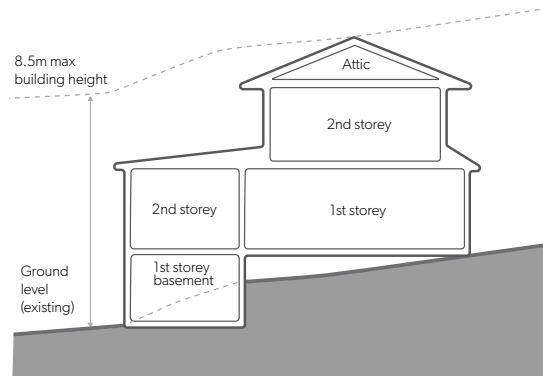
- **Identifies the principal development standards.**

The principal development standards control the size and form of development. While they vary by council area, some common and relevant standards for you are:

- › Maximum building height.
- › Maximum Floor Space Ratio (FSR).

## Height of buildings

Example: Maximum height of building 8.5m



## Floor Space Ratio

Floor Space Ratio can be a difficult concept to visualize. The following simple examples show how an FSR of 0.5:1 can be achieved on a single lot.

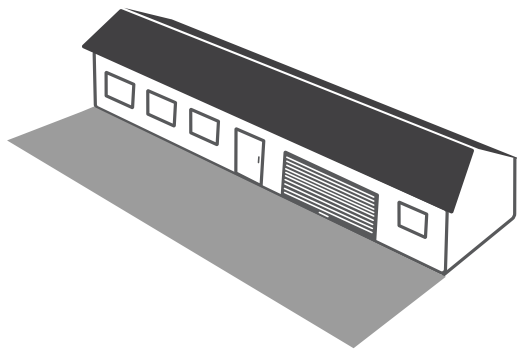
Maximum FSR is the floor area you may build compared to the total area of the block.

For an FSR of 0.5:1

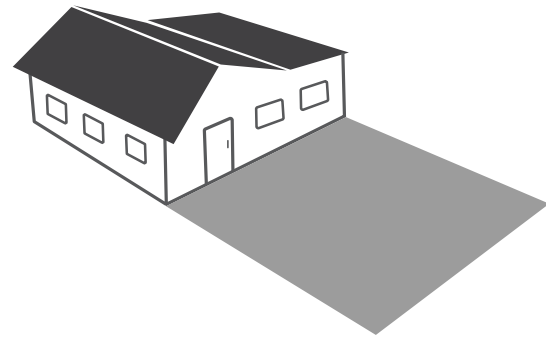
If site area = 1000m<sup>2</sup>

Floor area allowed = 500m<sup>2</sup>

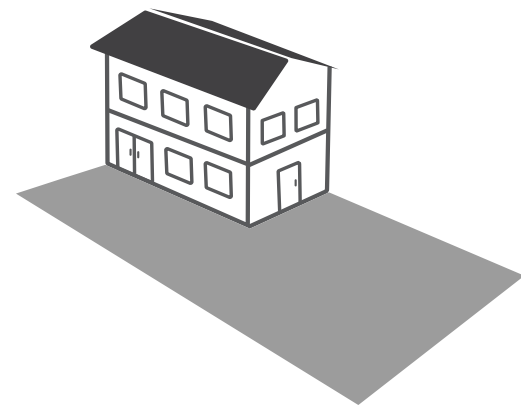
**Example 1 – One storey building 50% of site, floor area 500m<sup>2</sup>**



**Example 2 – One storey building 50% of site, floor area 500m<sup>2</sup>**



**Example 3 – Two storey building 25% of site, floor area 500m<sup>2</sup>**



The combination of standards like height, FSR and setbacks, combined with your site's physical features will determine how big your house can be and where it will be located on your block.

## Variations to the Development Standards

Development standards may be varied by your council. You can request a variation under clause 4.6 of the LEP, however, councils will not do this lightly and you must clearly justify why any change should occur.

If the development standards prevent appropriate development of your site and you believe the impact of your development is reasonable then you should contact your council to find out if a variation is likely to be approved.

For further information see the Department's document *Varying development standards: A Guide* by visiting [www.planning.nsw.gov.au/vdsguide](http://www.planning.nsw.gov.au/vdsguide)

## 4. Development Control Plans (DCPs)

While the rules set out in LEPs and SEPPs are most important, more detailed design and planning requirements are provided in your council's DCP. Here you will find information in simple language, with diagrams and pictures on issues including:

- Building design, siting and size.
- Access to sunlight.
- View sharing.
- Landscaping.
- Car parking.
- Heritage.
- Stormwater treatment.
- Waste management.
- Fences and walls.

The DCP provides guidance only, which means there can be flexibility to make variations when supported by a good argument in your DA.











***Part 2: Development  
assessment and  
construction  
approval processes***



## The process and participants' roles

The DA and construction approval process has six stages and there are a number of participants who have involvement across those stages. The stages, participants, roles and responsibilities are summarised in Figure 1 below:

Figure 1. Participants and roles by stage in the process

Stage	Participants	Responsibilities
<b>DA process</b>		
<b>1. Pre-lodgement</b>  	You	Get dreaming Get informed Get online Get team together Chat to neighbours in advance
	Your Team	Prepare reports/plans Compile application
	Neighbours	Raise issues, concerns and support
	Council officers	Provide accurate advice and identify reports required
	<b>2. Lodgement</b>	
		You
Your Team		Lodge 'assessment-ready' DA
Council administration staff		Completeness check Register Referrals – to internal experts and State agencies Formal notification to neighbours and community

Stage	Participants	Responsibilities
<b>3. Assessment</b> 	Council Assessment Officer	Set call-back date
		Assess
		Review submissions/referrals
		Request additional information
	Council specialist officers	Timely advice, consistent with pre-lodgement advice
	Your Team	Let council assess
		Provide additional information
	You	Remain patient
	Neighbours	Make informed comments
	Community	Make informed comments
	Other agencies	Timely comment/agreement
<b>4. Determination</b> 	Council delegate, Councillors or Local Planning Panel	Timely decision
		Achievable conditions
	Council Assessment Officer	Advise you of decision
	You	Read conditions
		Seek Construction Certificate (CC)

Stage	Participants	Responsibilities
Construction process		
<b>5. After decision, Construction Certificate</b> 	You	Get CC
		Get Owner/Builder Permit if required
		Get Home Owners Warranty
		Appoint Principal Certifying Authority (PCA)
		Remain informed
		Certifiers (council or private)
		Issue CC
		Make inspections
		Builder and sub-contractors
		Build as per plans
<b>6. Occupation Certificate</b> 	You	Arrange inspections
		Issue Occupation Certificate (OC)
		Take action if problems arise
	Council	Celebrate



## Stage 1: Pre-lodgement (Getting it right at the start)

The pre-lodgement stage is the front end of the development assessment process. If you get the front end right you are likely to have a simple DA process. Giving council an assessment-ready application, with all required information will not 'guarantee' approval – however, it will promote an efficient process, saving time and money, for both you and council.

### Get informed

The development potential of your site is determined by its characteristics and the planning controls that apply to it.

### Planning controls

There are several ways you can determine the controls that apply to your site.

1. A planning certificate lists the planning instruments that apply to your land. If you have recently purchased your site, you may have a planning certificate, as they form part of the sale contract. Otherwise you can purchase one from council directly.
2. Download a property report from the NSW planning portal. The report is free and provides a simple overview of the key planning controls that apply to your site.
3. Visit your council or their website. Council's website is a great source of planning information and specifically deals with the controls that apply to your local area.

### Site Analysis – Understanding your site and how it fits into the neighbourhood

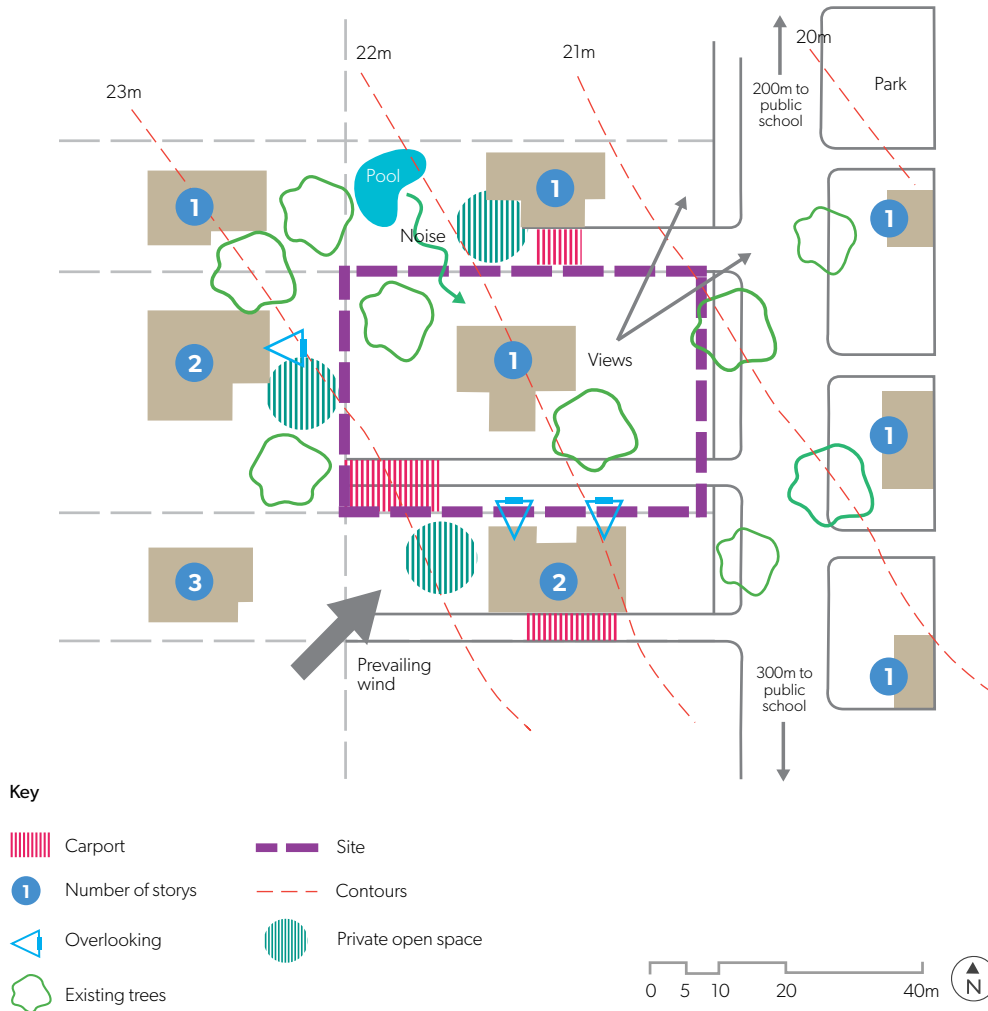
When you are planning and designing your project, you should analyse your site and how it relates to development on adjoining lands and the streetscape. This will help you understand its development capacity.

A Site Analysis plan shows the key characteristics of your site and its relationship to adjoining land. The plan will show information such as: the path of the sun; the location of buildings, trees and other key features on both your site and adjoining sites (including the street); and considers the relationship to your neighbours (such as privacy and overshadowing). The slope of the land, creeks and drainage are key issues which can impact how and where you can build on your land.

Your street will have its own character, which is created by the lot size and shape, the form of buildings (e.g. setbacks, height) and the landscape character. There may also be heritage values due to the age and style of buildings. A Site Analysis will help ensure that any development you undertake fits within that character.

A Site Analysis can be carried out by an architect, draftsman or designer. An example of a Site Analysis is shown on the next page.

Figure 2. Site analysis is the key to good design



Does my development sit comfortably in the neighbourhood?



## Project homes

Project homes can be a cost effective and simple way to get a new home. When choosing a project home make sure you consider:

- The frontage and depth of your lot and the setbacks that apply.
- It is right for your site.
- It makes best use of your site's attributes like solar access, street access, slope etc.

You should also be aware of the cost implications if you need to change the plans to suit your site or if you have to do extensive site works.

## Putting your team together

In preparing your DA you may need an architect or building designer to prepare (and cost) your plans, plus a number of specialists, depending on your site and your proposal e.g. land surveyor, engineer, town planner.

You can find experienced people by:

- Talking to friends and neighbours who have done similar work.
- Looking at similar designs locally and asking the owners.
- Searching at professional organisation registration websites.
- Looking at consultants used by others on council's DA tracking system.

As you move to construction you will need a principal certifying authority (council or private), a principal contractor (builder) and any relevant sub-contractors.

## Pre-lodgement meetings with council

Most councils provide a range of pre-lodgement services many of which are free. Depending upon the complexity of your proposal, once you have gathered information you can:

- Obtain over the counter advice from a council duty officer. This type of meeting is good for simple general inquiries or inquiries about minor development.
- Make an appointment with a staff member. This type of meeting is good for projects where you require some general direction.
- A formal pre-lodgement meeting is encouraged where:
  - › The planning rules are not clear.
  - › You wish to vary development standards.
  - › There is a specific contentious issue (e.g. heritage, flooding, stormwater constraints).







## Costs

Building a home can be expensive. In your budget you should consider all potential additional costs which may apply to your development. These could include:

- The DA fee, including the cost of referral to State Government agencies.
- The construction certificate fee and fees incurred in the building process including for inspections, engineer's certificates etc.
- Development contributions payable for State and local services.
- Conditions that may be imposed by council such as bonds to cover damage to roads, environmental clean ups, or dilapidation surveys of attached properties.
- Water and other service connections.

Ask council at an early opportunity about other costs.

## Get talking to your neighbours

When you are preparing your plans think about how it will look from and impact on 'next door' and across the street. Once you have a clear idea of your proposal, you should discuss it with your neighbours. Ideally, you should contact them

early in the process. Consider issues such as privacy, solar-access, views and visual impacts – especially if you are proposing to vary the LEP standards.

Most councils have a notification policy and will notify your direct neighbours once the DA is lodged.

## Prepare your DA

The type of information that accompanies a DA will vary depending on your proposal and site – when you speak to your council in the pre-lodgement stage you will be advised of information they require. This may include:

- The owner's consent (if you are not the owner).
- A Statement of Environmental Effects (SEE).
- Site survey.
- Site analysis (see Figure 2, on page 20).
- A BASIX Certificate – A basix certificate is an energy efficiency report for a new home or alterations and additions greater than \$50,000 that demonstrates its sustainability.
- Other plans such as landscape or drainage plans.
- Specific technical reports required by State agencies.

### Key point – Address all relevant matters in your application

Your DA should address all relevant matters, up-front, in your **Statement of Environmental Effects**. This will help to avoid additional information requests, and will help to ensure an efficient and smooth process.



## Stage 2: Lodgement and initial administration by council, of your application

### Lodge your DA with council ensuring it is assessment ready.

When you have filled out all the required forms you can lodge your application with council. A completed DA will generally include:

- Any necessary specialist reports.
- Council's DA form and checklist.
- All matters required for a DA as listed in the EP&A Regulation (Schedule 1, Part 1); and
- The required DA fee.

Lodgement can be:

- Over the counter at council (the form from your council will advise) as either paper copies or on a USB.
- Online with some councils.

Lodgement is the formal start of the DA process. Council will check that all the information has been provided. The EP&A Regulation sets out timeframes and procedures that must be followed by a consent authority in assessing a DA. If the information you provide is adequate the 'clock', that measures the time council has to assess your application, will start. If the information is inadequate the clock stops until the required information is provided. This is important as you may have the right to go to court to seek a determination of your DA if council does not determine your DA within the specified time frames.

It is **your responsibility** to provide all the required information and to make sure your DA provides enough detail to enable council to make a decision. Getting this right will save you and your council time and money.

Fees are set out in the EP&A Regulation and must accompany an application. They are based on the estimated cost of the development that you must

provide. Your team needs to ensure the estimates are accurate. Speak to council about additional fees and charges.

## Neighbour notification and advertising

Once your DA is lodged and checked, formal neighbour notification may occur. Notification can take a number of forms:

- Individual letters to local residents.
- On-site notice.
- An ad in the local newspaper.

Neighbour notification is a key element in the DA process. Raising issues can be a positive, value adding exercise as all stakeholders work together for a mutually beneficial outcome.

The on-site notice and newspaper ad mean that your DA is on public exhibition and any person can make a submission.

In each case, the plans and application are made available at the council offices, perhaps at other locations (such as the local library) for public inspection and generally on council's website.

## Referrals (internal and external)

Your council has internal experts who will comment on different environmental issues. Many councils have a meeting of experts to check DAs after they are lodged to ensure the information is adequate to make a decision.

Some government agencies have special roles to provide comment or agreement/approval within their areas of expertise. This is a consultation or concurrence. Some examples include a consultation with the NSW Rural Fire Service if your property adjoins bushfire prone land, or the Office of Environment & Heritage if your proposal is near or affects a State heritage item.

## Allocation to your assessment officer

An assessment officer will be allocated to you and they will be your key point of contact. It is good practice for council to set a future 'call back' date when the assessment officer will ring you to introduce themselves, discuss progress and address any issues arising (if necessary).

Council's resources and the assessment officer's time is best spent assessing your application. Assessment officers usually have a lot of applications to assess and frequent calls will slow this process. It's recommended that you wait for your assessment officer to contact you. If there is a significant issue or need for clarification, your assessment officer will contact you prior to your call back date. Most councils determine straightforward and complete applications in 40 days or less.

Key points of contact will be:

- Initial setting of future 'call back' date.
- Site inspection – you can attend.
- 'Call back' date.
- Council seeking additional information.
- Council advising you of its decision.

Remember if you have engaged someone else to be the applicant on your behalf then council will contact them, not you (e.g. consultant, project home group).

In some instances council may request to speak to a member of your specialist team e.g. engineer.

## Stage 3: Assessment (What happens to my DA now?)

Under the EP&A Act, all DAs must be formally assessed by the council. This means that the site must be inspected, applicants and neighbours engaged, reports drafted and recommendations made.

The six matters that your council must consider (under section 4.15 of the EP&A Act) are:

- All plans and policies that apply – SEPPs, LEPs, DCPs (as outlined in Part 1 of this guide).
- Impacts of your proposal on the natural and built environment and the social and economic impacts in the locality.
- The suitability of your site for your proposal (e.g. physical characteristics, availability of access and services).
- Any submissions (such as from neighbours or other groups).
- Any comments or agreements/approvals from any NSW Government agency.
- The broader public interest.

### Key point – The significance of DA assessment

Your council will refer to section 4.15 of the EP&A Act when assessing your DA, so ensure your team addresses these matters when completing your **Statement of Environmental Effects**.

### Council's DA tracking system

You can consult your council's online DA tracking system, if available, to monitor the progress of your DA. The system may give you access to the assessment officer's report and its recommendation.

### Liaison with council – additional information requests

If you get the 'front end' right then the assessment officer will most likely have all the information required to make a decision. However, it may be necessary for the assessment officer to contact you or your consultant and request clarification or additional information. It's helpful if you can respond quickly and it's best to get your experts to talk directly with council if further clarification is needed.

## Stage 4: Determination (The Decision)

### DA outcomes

There are three possible outcomes for a DA:

1

**Development Consent:**  
*Granted, with conditions.*

2

**DA Refusal:** *With reasons.*

3

**Deferred Commencement Consent:** *That is, a consent not operating until one or more important matters are resolved. This is not a common outcome.*

### Why conditions are important

Your **development consent** is a legal document and is extremely important – you must build according to the conditions to avoid possible penalties or having to take costly rectification measures. As owner, you should carefully read and discuss these conditions with your certification and building team members, as the conditions may modify the proposal you submitted.

Some conditions are mandatory and must be applied on all development consents e.g. your house must meet the Building Code of Australia (BCA).

### Who makes the decision on your DA?

For small housing development most decisions will be made at staff-level e.g. the assessment officer, senior officer, the Manager/ Director of Development Assessment, or the General Manager.

### The significance of the conditions of your consent

Conditions of consent can modify your plans (e.g. reducing height, deleting elements, adding a privacy screen, requiring a retaining wall). These changes may increase the cost of your construction. Getting it right at the start will help minimise unexpected and unplanned costs because of conditions imposed.



Conditions also require you and your team to take steps prior to or at key stages e.g. prior to the issue of a Construction Certificate, prior to/ during construction and prior to the issue of an Occupation Certificate. Some standard conditions to bring to your attention include:

- Erection of signs on-site with details about your Principal Certifying Authority (PCA) and principal contractor (see Stage 5).
- Ensure that operations on the site do not adversely affect the neighbourhood e.g. hours of work, waste management and controlling water run-off and erosion.
- Organise any bonds to be paid e.g. to protect the footpath.
- In some cases you will need to pay development contributions – which goes towards local infrastructure.

### **How long does my development consent last?**

The consent lasts for five years unless another period is specified by council or physical commencement has occurred in which case it does not lapse.

### **What can I do if I don't like council's decision?**

#### **DA refusal**

If your DA is refused or granted with unacceptable conditions you have three options all of which will require some time and cost:

- Request a Review of Determination by your council (with amended plans, if you wish). A fee applies and you have six months from the date

of the decision for this request to be lodged and also determined. You need to allow sufficient time for this.

- Commence an appeal to the Land and Environment Court. You have six months to lodge an appeal. The court hears from you or your representative, council, relevant experts and potentially the community and determines whether the DA should be approved and what conditions should apply to it. The appeal process can be time consuming and costly, particularly if a matter is not resolved through mediation before going to a hearing.
- Modify and relodge your DA.

#### **Modifications and reviews**

If you wish to make changes to your approved plans (or the conditions), you can submit an application for a **Modification of Consent** (under section 4.55 of the EP&A Act). This may be needed if you change your mind on particular aspects of the development.

The development you seek to modify must remain substantially the same as the development the original consent was granted for. If the application varies too much from the original consent a new DA must be lodged.

Modifications can be time consuming and cost additional fees. Getting the intended outcome right in the initial DA is much easier.



## Stage 5: After decision – get your Construction Certificate (approval to build) and start

### Before you can start work

While receiving your development consent is worth celebrating, it does not mean that you can start building work. Before you can start building you must do four things:

1. Get a Construction Certificate – building approval from your council or a private certifier.
2. Appoint a Principal Certifying Authority (PCA) to monitor construction – this can be your council or an accredited certifier.
3. Give the council and the PCA two days' notice before you start work.
4. Complete any works listed in the 'Prior to commencing work' part of the consent.

### Which certifier?

You have the choice as to whom issues your Construction Certificate – the certifying authority can either be your council or an accredited certifier. The NSW Building Professionals Board (BPB) accredits all certifiers that are not employed by your council, and provides the information you need on their website [www.bpb.nsw.gov.au/](http://www.bpb.nsw.gov.au/).

### Construction Certificate (CC)

The CC must be obtained from your council or an accredited certifier and includes your detailed building plans/engineering details and specifications. The plans will most likely contain a lot more information than your approved DA plans, to allow your builder to work directly from them.

The building must be consistent with them and the development consent.

Any plan changes that are inconsistent with the DA plans would need to be assessed as to whether an application to modify the development consent is required (see page 29).

In order to obtain the CC you may be required to first provide additional reports and pay refundable bonds or development contributions to the council. These details are covered in the conditions of your development consent.

## The role of the Principal Certifying Authority (PCA)

The PCA must be appointed by the 'person having the benefit of the development consent' – this means you as the owner and not your builder. It would probably be the same person or firm that issued your CC, but does not have to be – as with your CC, it can be an accredited certifier or your council as PCA.

The PCA's job is to work with you through the construction process and issue you with an Occupation Certificate (OC) when the work is completed. To make this decision, the PCA inspects the development at various points in the build and ultimately ensures that the building is safe and fit to occupy and in accordance with the development consent and CC.

### During construction

As owner your role is to work with the PCA and the builder, keeping an eye on the work (and the terms of your development consent), managing the site and organising inspections. The PCA will brief the builder and you about the process. You have a role in ensuring that your team follows the procedures required for organising inspections – missing an inspection can lead to delays.

Inspections required generally include:

- Piers.
- Slab.
- Frame.
- Stormwater.
- Wet area.
- Final.

You should also keep your neighbours informed and report any complaints to the builder and the PCA.

Keeping a close eye on the work and being sure it is consistent with the development consent and any conditions attached is very important. Orders can be issued by council to stop work and fix any errors. This can cost time and money or even lead to penalties. The EP&A Act specifies enforcement measures that can be applied if a development is not built in accordance with its consent.

## Stage 6: Get your Occupation Certificate (OC) and celebrate

The OC authorises the occupation and use of a new building or building section. For staged works, an Interim OC may be issued which allows you to occupy the completed part of the building.

Depending on the particular OC sought, the PCA must be satisfied the development meets various regulatory standards. These generally include that:

- A development consent is in force.
- The design and construction of the building is not inconsistent with the development consent.
- Any pre-conditions set out in the consent or requirements of planning agreements have been satisfied.
- A CC has been issued.
- That the building is suitable for occupation (in accordance with its BCA classification).

The issue of the final OC is the last step in the formal DA and construction process (though there could be ongoing 'operational' conditions such as maintaining appropriate noise levels or landscape maintenance).



## List of abbreviations used

BCA	Building Code of Australia
BPB	NSW Building Professionals Board
CC	Construction Certificate
DA	Development application
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	The Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument (a SEPP or an LEP)
LEP	Local Environmental Plan
OC	Occupation Certificate
PCA	Principal Certifying Authority
SEE	Statement of Environmental Effects
SEPP	State Environmental Planning Policy



# ***Glossary***

**Accredited Certifier** means the holder of a certificate of accreditation as an accredited certifier under the Building Professionals Act 2005. Also referred to as a 'Certifying Authority'.

**Appeal** is the right of a person to challenge a decision in court, for example, a decision by a council to refuse a DA, or impose a particular condition of consent.

**Building Code of Australia (BCA)** means the document of that name published on behalf of the Australian Building Codes Board in October 1996, together with:

- a. Such amendments made by the Board, and
- b. Such variations approved by the Board in relation to NSW, as are prescribed by the regulations.

**Building work** means any physical activity involved in the erection of a building.

**Complying Development** is routine development that an EPI provides can be approved by meeting specified predetermined development standards.

**Consent Authority**, in relation to a DA (or an application for a Complying Development Certificate), means:

- a. The council having the function to determine the application, or
- b. If a provision of the EP&A Act, the regulations or an EPI specifies a Minister, the Greater Sydney Commission, the Planning Assessment Commission, a joint regional planning panel, local planning panel, or public authority (other than a council) as having the function to determine the application – that Minister or the Greater Sydney Commission, Planning Assessment Commission, panel or authority, as the case requires.

**Construction Certificate** is a certificate to the effect that work completed in accordance with specified plans and specifications will comply with the requirements of the Act and Regulations.

**Development application (DA)** means an application for consent under Part 4 of the EP&A Act to carry out development. It is usually made to the local council. It consists of standard forms, detailed plan drawings and a number of detailed documents (called 'submission requirements').

**Development consent** means consent under Part 4 of the EP&A Act to carry out development and includes, unless expressly excluded, a Complying Development Certificate.

**Development Control Plan (DCP)** is a detailed guideline that illustrates the controls that apply to a particular type of development or in a particular area and is made under the EP&A Act.

**Dwelling** means a room or suite of rooms occupied or used, or constructed or adapted so as to be capable of being occupied or used as a separate domicile.

**Environmental Planning Instruments (EPIs)** means an LEP or SEPP made under Part 3 of the EP&A Act. They contain the controls that apply in relation to the development of an area/site.

**Exempt Development** is classified in an EPI as development that may be carried out without the need for development consent because it will have minimal environmental impact, so long as any requirements of the EPI are satisfied.

**Local Environmental Plan (LEP)** is a form of EPI made under the EP&A Act. It is the principal legal document for controlling development at the council level. LEPs contain zoning provisions that establish permissibility of uses and specify standards that regulate development. They

are prepared by councils and approved by the Minister or, in the Greater Sydney Region, the Greater Sydney Commission or their delegates.

**Occupation Certificate**, issued by the Principal Certifying Authority, is a certificate that authorises the occupation and use of a new building, or a change of building use for an existing building. It is a post-construction check on whether necessary approvals and certificates are in place for the development and the building is suitable for occupation or use in accordance with its BCA classification.

**Principal development standards** are those standards that are so important that they are included in the LEP e.g. building height, floor space ratio.

**Public Domain** refers to public land adjoining or in the vicinity of a site. For instance, streets, footpaths and public reserves.

**Secondary dwelling** means a self-contained dwelling that:

- i. Is established in conjunction with another dwelling (the principal dwelling), and
- ii. Is on the same lot of land as the principal dwelling, and
- iii. Is located within, or is attached to, or is separate from, the principal dwelling.

**Site Analysis** is a bird's eye view plan showing where the sun is, and identifying trees and other key features on-site and adjoining sites (including the street).

**Solar access** means the availability of sunshine to a property.

### **State Environmental Planning Policies**

**(SEPPs)** are a form of EPI made under the EP&A Act by the Governor to make provision with respect to any matter that, in the opinion of the Minister, is of State or regional environmental planning significance, or is of environmental planning significance to a district in the Greater Sydney Region.

**Statement of Environmental Effects (SEE)** is a formal report prepared for the applicant in support of their DA, addressing the council controls and the merits of the proposal.

**Streetscape** refers to the view from the public domain, usually the street (and possibly a laneway or public reserve).

**Zoning** is the system of categorising land uses as prohibited, requiring consent or not requiring consent within particular areas. Zones (such as Residential or Commercial) are generally shown in map form and their objects and permissible uses are set out in EPIs.







*For more information about the development application process  
visit [www.planning.nsw.gov.au/yourdaguide](http://www.planning.nsw.gov.au/yourdaguide)*